

FILED

JAN 05 2016

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

PETER WILLIAM HARPER,

Petitioner,

vs.

LEROY KIRKEGARD, TIM FOX,

Respondents.

CV 15-30-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered findings and recommendations in this matter on September 22, 2015, recommending dismissal of Petitioner Peter William Harper's ("Harper") petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Harper filed objections to the findings and recommendations on October 8, 2015, and so is entitled to de novo review of those findings and recommendations to which he specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). "Clear error exists if the Court is left with a definite and firm conviction that a mistake has been committed." *United States v.*

Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Notwithstanding the above, “[w]here a petitioner’s objections constitute perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original habeas petition, the applicable portions of the findings and recommendations will be reviewed for clear error.” *Rosling v. Kirkegard*, 2014 WL 693315 at *3 (D. Mont. Feb. 21, 2014) (citations omitted).

Having reviewed Harper’s objections and compared the arguments contained therein to those made in his habeas petition, the Court finds that Harper fails to articulate any specific objection to Judge Johnston’s reasoning, and instead simply restates the same contentions he made in the petition. Accordingly, the Court reviews Judge Johnston’s findings and recommendations for clear error and, finding none,

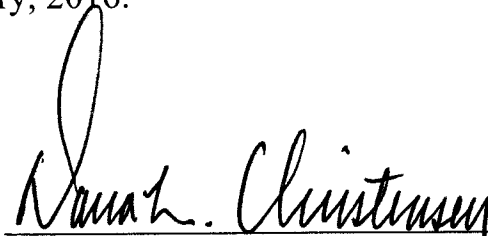
IT IS ORDERED that Judge Johnston’s findings and recommendations (Doc. 6) are ADOPTED IN FULL. Harper’s petition for writ of habeas corpus (Doc. 1) is DISMISSED WITH PREJUDICE. Claims 1, 2, 3, and 4 are DISMISSED for lack of jurisdiction. Claim 5 is DENIED for lack of merit. The first part of Claim 6 pertaining to untimely receipt of the written judgment is DISMISSED for lack of jurisdiction. The second part of Claim 6 is DENIED for

lack of merit. Claim 7 is DENIED for lack of merit.

IT IS FURTHER ORDERED that the Clerk of Court shall enter by separate document a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 5th day of January, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court